

In re: BILLY MIKE GENTRY.
P&S Docket No. D-02-0002.
Decision and Order.
Filed July 25, 2002.

P&S – Default – Bond, failure to maintain adequate, bond.

Ann Pamess, for Complainant.
Respondent, Pro se.

Decision and Order issued by Jill S. Clifton, Administrative Law Judge.

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 *et seq.*) by a complaint filed by the Deputy Administrator, Packers and Stockyards Programs, Grain, Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Respondent willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*). The complaint and a copy of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*), hereinafter the Rules of Practice, were mailed to Respondent by regular mail on February 28, 2002. Accompanying the complaint was a cover letter informing Respondent that an answer must be filed within twenty (20) days of service and that failure to file an answer would constitute an admission of all of the material allegations in the complaint and a waiver of the right to an oral hearing.

Respondent has failed to file an answer within the time period required by the Rules of Practice (7 C.F.R. § 1.136), and the material facts alleged in the complaint, which are admitted by Respondent's failure to file an answer, are adopted and set forth herein as findings of fact.

This decision and order, therefore, is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Gentry, hereinafter referred to as Respondent, is an individual whose mailing address is P. O. Box 667, Houston, Mississippi 38851.
2. Respondent is and at all times material herein was:
 - (a) Engaged in the business of a market agency buying on commission, and of a dealer buying and selling livestock in commerce for his own account; and
 - (b) Registered with the Secretary of Agriculture as a market agency buying on commission, and as a dealer to buy and sell livestock in commerce for his own account.
3. Respondent Gentry was ordered in docket D-91-24 issued July 5, 1991, to cease and desist from engaging in business in any capacity for which bonding is required

under the Act and regulations without filing and maintaining a reasonable bond or its equivalent, as required by the Act and regulations. Respondent Gentry was also assessed a civil penalty.

4. As set forth in section II of the complaint, Respondent was served with a letter of notice on March 13, 2000, informing him that the \$10,000.00 surety bond he maintained was inadequate, and that a \$75,000.00 surety bond was required to secure the performance of his livestock obligations. Notwithstanding this notice, the Respondent continued to engage in the business of a market agency and a dealer without maintaining an adequate bond or its equivalent.

Conclusions

By reason of the facts alleged in Finding of Fact 4, Respondent has wilfully violated section 312(a) of the Act (7 U.S.C. § 213(a)), and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29, 201.30).

Respondent did not file an answer within the time period prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), which constitutes an admission of all of the material allegations in the complaint. Complainant has moved for the issuance of a Decision Without Hearing by Reason of Default, pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139). Accordingly, this decision is entered without hearing or further procedure.

Order

Respondent Billy Mike Gentry, his agents and employees, directly or indirectly through any corporate or other device, in connection with his operations subject to the Packers and Stockyards Act, shall cease and desist from engaging in business in any capacity for which bonding is required under the Packers and Stockyards Act, as amended and supplemented, and the regulations, without filing and maintaining an adequate bond or its equivalent, as required by the Act and the regulations.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is hereby assessed a civil penalty in the amount of five thousand dollars (\$5,000).

This decision and order shall become final and effective without further proceedings thirty-five (35) days after service on Respondent, if it is not appealed to the Judicial Officer by a party to the proceeding within thirty (30) days, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145).

Copies hereof shall be served upon the parties.

[This Decision and Order became final November 2, 2002. - Editor]
